

**SENATE, No. 1096**

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**STATE OF NEW JERSEY**

**220th LEGISLATURE**

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INTRODUCED JANUARY 31, 2022

**Sponsored by:**  
**Senator JOSEPH F. VITALE**  
**District 19 (Middlesex)**

**SYNOPSIS**

Provides that cooperative sober living residences are inherently beneficial uses.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning the zoning of cooperative sober living  
2 residences and amending P.L.1975, c.291.

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4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

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7 1. Section 3.1 of P.L.1975, c.291 (C.40:55D-4) is amended to  
8 read as follows:

9 3.1. "Days" means calendar days.

10 "Density" means the permitted number of dwelling units per  
11 gross area of land that is the subject of an application for  
12 development, including noncontiguous land, if authorized by  
13 municipal ordinance or by a planned development.

14 "Developer" means the legal or beneficial owner or owners of a  
15 lot or of any land proposed to be included in a proposed  
16 development, including the holder of an option or contract to  
17 purchase, or other person having an enforceable proprietary interest  
18 in such land.

19 "Development" means the division of a parcel of land into two or  
20 more parcels, the construction, reconstruction, conversion,  
21 structural alteration, relocation or enlargement of any building or  
22 other structure, or of any mining excavation or landfill, and any use  
23 or change in the use of any building or other structure, or land or  
24 extension of use of land, for which permission may be required  
25 pursuant to P.L.1975, c.291 (C.40:55D-1 et seq.).

26 "Development potential" means the maximum number of  
27 dwelling units or square feet of nonresidential floor area that may  
28 be constructed on a specified lot or in a specified zone under the  
29 master plan and land use regulations in effect on the date of the  
30 adoption of the development transfer ordinance or on the date of the  
31 adoption of the ordinance authorizing noncontiguous cluster, and in  
32 accordance with recognized environmental constraints.

33 "Development regulation" means a zoning ordinance,  
34 subdivision ordinance, site plan ordinance, official map ordinance  
35 or other municipal regulation of the use and development of land, or  
36 amendment thereto adopted and filed pursuant to P.L.1975, c.291  
37 (C.40:55D-1 et seq.).

38 "Development restriction" means an agricultural restriction, a  
39 conservation restriction, or a historic preservation restriction.

40 "Development transfer" or "development potential transfer"  
41 means the conveyance of development potential, or the permission  
42 for development, from one or more lots to one or more other lots by  
43 deed, easement, or other means as authorized by ordinance.

44 "Development transfer bank" means a development transfer bank  
45 established pursuant to section 22 of P.L.2004, c.2 (C.40:55D-158)  
46 or the State TDR Bank.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1       "Drainage" means the removal of surface water or groundwater  
2 from land by drains, grading or other means and includes control of  
3 runoff during and after construction or development to minimize  
4 erosion and sedimentation, to assure the adequacy of existing and  
5 proposed culverts and bridges, to induce water recharge into the  
6 ground where practical, to lessen nonpoint pollution, to maintain  
7 the integrity of stream channels for their biological functions as  
8 well as for drainage, and the means necessary for water supply  
9 preservation or prevention or alleviation of flooding.

10       "Electric vehicle supply equipment" or "electric vehicle service  
11 equipment" or "EVSE" means the equipment, including the cables,  
12 cords, conductors, connectors, couplers, enclosures, attachment  
13 plugs, power outlets, power electronics, transformer, switchgear,  
14 switches and controls, network interfaces, and point of sale  
15 equipment and associated apparatus designed and used for the  
16 purpose of transferring energy from the electric supply system to a  
17 plug-in electric vehicle. "EVSE" may deliver either alternating  
18 current or, consistent with fast charging equipment standards, direct  
19 current electricity. "EVSE" is synonymous with "electric vehicle  
20 charging station."

21       "Environmental commission" means a municipal advisory body  
22 created pursuant to P.L.1968, c.245 (C.40:56A-1 et seq.).

23       "Erosion" means the detachment and movement of soil or rock  
24 fragments by water, wind, ice and gravity.

25       "Final approval" means the official action of the planning board  
26 taken on a preliminarily approved major subdivision or site plan,  
27 after all conditions, engineering plans and other requirements have  
28 been completed or fulfilled and the required improvements have  
29 been installed or guarantees properly posted for their completion, or  
30 approval conditioned upon the posting of such guarantees.

31       "Floor area ratio" means the sum of the area of all floors of  
32 buildings or structures compared to the total area of land that is the  
33 subject of an application for development, including noncontiguous  
34 land, if authorized by municipal ordinance or by a planned  
35 development.

36       "General development plan" means a comprehensive plan for the  
37 development of a planned development, as provided in section 4 of  
38 P.L.1987, c.129 (C.40:55D-45.2).

39       "Governing body" means the chief legislative body of the  
40 municipality. In municipalities having a board of public works,  
41 "governing body" means such board.

42       "Historic district" means one or more historic sites and  
43 intervening or surrounding property significantly affecting or  
44 affected by the quality and character of the historic site or sites.

45       "Historic preservation restriction" means a "historic preservation  
46 restriction" as defined in section 2 of P.L.1979, c.378 (C.13:8B-2).

47       "Historic site" means any real property, man-made structure,  
48 natural object or configuration or any portion or group of the

1 foregoing of historical, archeological, cultural, scenic or  
2 architectural significance.

3 "Inherently beneficial use" means a use which is universally  
4 considered of value to the community because it fundamentally  
5 serves the public good and promotes the general welfare. Such a  
6 use includes, but is not limited to, a hospital, school, child care  
7 center, group home, cooperative sober living residence defined and  
8 licensed by the Department of Community Affairs, pursuant to the  
9 "Rooming and Boarding House Act of 1979," P.L.1979, c.496  
10 (C.55:13B-1 et al.), or **[a]** wind, solar, or photovoltaic energy  
11 facility or structure.

12 "Instrument" means the easement, credit, or other deed  
13 restriction used to record a development transfer.

14 "Interested party" means: (a) in a criminal or quasi-criminal  
15 proceeding, any citizen of the State of New Jersey; and (b) in the  
16 case of a civil proceeding in any court or in an administrative  
17 proceeding before a municipal agency, any person, whether residing  
18 within or without the municipality, whose right to use, acquire, or  
19 enjoy property is or may be affected by any action taken under  
20 P.L.1975, c.291 (C.40:55D-1 et seq.), or whose rights to use,  
21 acquire, or enjoy property under P.L.1975, c.291 (C.40:55D-1 et  
22 seq.), or under any other law of this State or of the United States  
23 have been denied, violated or infringed by an action or a failure to  
24 act under P.L.1975, c.291 (C.40:55D-1 et seq.).

25 "Land" includes improvements and fixtures on, above or below  
26 the surface.

27 "Local utility" means any sewerage authority created pursuant to  
28 the "sewerage authorities law," P.L.1946, c.138 (C.40:14A-  
29 1 et seq.); any utilities authority created pursuant to the "municipal  
30 and county utilities authorities law," P.L.1957, c.183 (C.40:14B-  
31 1 et seq.); or any utility, authority, commission, special district or  
32 other corporate entity not regulated by the Board of Regulatory  
33 Commissioners under Title 48 of the Revised Statutes that provides  
34 gas, electricity, heat, power, water or sewer service to a  
35 municipality or the residents thereof.

36 "Lot" means a designated parcel, tract or area of land established  
37 by a plat or otherwise, as permitted by law and to be used,  
38 developed or built upon as a unit.

39 (cf: P.L.2021, c.171, s.5)

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41 2. This act shall take effect immediately.

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#### STATEMENT

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46 This bill would revise the definition of inherently beneficial use  
47 under the "Municipal Land Use Law," P.L.1975, c.291 (C.40:55D-1  
48 et seq.) to include cooperative sober living residences. If a use is

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1 deemed inherently beneficial, it presumptively satisfies the positive  
2 criteria for the grant of a use variance under subsection d. of section  
3 57 of P.L.1975, c.291 (C.40:55D-70).

4 This bill would make it easier for these residences to be  
5 established, which in turn would create more opportunities for  
6 individuals struggling with addiction to obtain supportive,  
7 cooperative sober living housing. With the addiction crisis that is  
8 currently facing the State, it is critical to ensure that there are  
9 sufficient residences with support structures in place to help people  
10 on the path to recovery from addiction.